IV

PENNSYLVANIA BOROUGHS

"The municipality and township is the unit of our political structure. These local organizations conserve the largest mass of the interests, and direct the greater part of the daily life of our people. National and State laws touch only the circumference of the political and social being of the citizen; municipal ordinances and regulations affect his interest and comforts, daily and hourly, and are in contact with him at all points."—*Gov. Hoyt's Message, Jan.* 4, 1881.

"Local assemblies of citizens constitute the strength of free nations. Municipal institutions are to liberty what primary schools are to science; they bring it within the people's reach; they teach men how to use and enjoy it; a nation may establish a system of free government, but without the spirit of municipal institutions it cannot have the spirit of liberty."—*De Tocqueville.*

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History is past Politics and Politics present History — *Freeman*

FOURTH SERIES

IV

PENNSYLVANIA BOROUGHS

By WILLIAM P. HOLCOMB

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PENNSYLVANIA BOROUGHS.

The charter from Charles II. granting William Penn a princely domain to the west of the Delaware river, gave him the authority to "divide the country into Townes, Hundreds, and Counties, and to erect and incorporate Townes into Borroughes, and Borroughes into Citties, and to make and constitute ffaires and markets therein, with all other convenient priviledges and munities." This has been the fundamental clause in the municipal history of Pennsylvania since 1681. It gave Penn the right to perpetuate the institutions already in existence on the banks of the Delaware, or to modify them if he chose, and transplant to the new province other English institutions that he might consider necessary for the well governing of his people. This right he exercised by establishing the county as the largest political division of the province, by modifying the existing town with its court into the township under the authority of the county courts, and lastly by founding towns and villages, which he incorporated into the city and borough. Thus, by introducing the county, the township, the borough, and the city, he fixed the seal of his enduring influence upon the local government of Pennsylvania. The boroughs were established within a few years after the proprietary's arrival, and though they were but a handful during the colonial period, they form the connecting links between their numerous successors and the ancient boroughs of England. He who lives in a Pennsylvania borough to-day is as closely connected with the times of Edward the

Confessor as his brother farmer in the township or "tûnscipe," for both borough and township are common institutions of Anglo Saxon days. Many years ago Thomas Madox thus discoursed on the antiquity of boroughs: "Monsieur Littleton saith, Buroughs are the most ancient Towns in England; for in old times Cities were Buroughs, and so called. The truth of the matter is this, Burghes might well be the most ancient Towns in England. It was according to the Native Language of this Countrey to style them so. The Anglo Saxons called a City as well as a Town Burh or Burgh."[1] The burh had an earlier meaning than that of the town; it was once, according to the dictum of Stubbs, "merely the fortified house and court yard of a king or noble; then it became the more organized form of the township," and gradually grew into the town with its charter of privileges, with its port-reeve, or its bailiff or mayor, its aldermen, and other corporate officers.

Considering the importance of the borough in the municipal history of the middle ages, and in both municipal and parliamentary affairs of modern England, and the frequency with which the word occurs in the annals of her history, it seems not a little strange that in the spread of English institutions in the United States, it has not found a more general acceptance. It may be that towns in several of the States are occasionally called boroughs, just as writers speak of boroughs in Italy or France, in a general way, but the three States of Pennsylvania, New Jersey and Connecticut are the only ones now possessing borough systems. In New Jersey the first boroughs date back into the early part of the last century; they developed on independent lines, without uniformity of purpose or system till the enactment of a general law in 1878, which now regulates their future incorporation. Connecticut introduced a borough system with the beginning of the present century, to secure better local government for

[1] Firma Burgi, p. 2.

the larger villages than was afforded by the "town" system. Virginia thought to have a borough system at the beginning of her colonial life, and as early as 1619, says Mr. Stith, had eleven boroughs which sent members to her first legislative assembly.[1] These were not boroughs in the sense of incorporated villages or towns, as the towns were yet to be; they were really plantations and hundreds, though by a stretch of language two or three of them were sometimes called cities. Representation being given these divisions in the House of Burgesses, after the manner of parliamentary representation in England,[2] it was quite natural to style them boroughs, and the historian probably had the parliamentary boroughs in mind when he gave this name to the Virginia plantations. In her subsequent history, Virginia had two municipal boroughs that also had representation in the House of Burgesses, but there are now none in the State. Town has been the name generally given to the incorporated village, and in this, as in many other particulars, Virginia has set the fashion for the Southern States.

Lord Baltimore's charter of 1632 empowered him to "erect and incorporate Towns into Boroughs, and Boroughs into Cities," but Maryland did not produce towns any more than Virginia, and those that did struggle into existence were called towns and cities, not boroughs.[3] In the grant of Maine to Sir Ferdinando Gorges in 1639, he was permitted to incorporate "Citties, Borroughs and Townes," and constitute the usual fairs and markets therein, but neither in the forests of Maine, nor in any New England colony did the boroughs take root with the original settlements. In New York the

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[1] History of Va., p. 161.

[2] It is stated on p. 420 of Campbell's "History of the Colony and Ancient Dominion of Virginia" that actual residence in the place he represented was not necessary to render a candidate eligible to a seat in the House of Burgesses. This is un-American now-a-days.

[3] As late as 1716, a law speaks of boroughs that might be erected thereafter. See Laws of Maryland.

incorporated village is so styled till it becomes a city. This custom prevails in several States, particularly in the West, where the institutions of New York have been largely adopted. In Kansas we find the anomaly of styling all incorporated villages cities. It is no uncommon thing there to find a mayor and council presiding over their little city of less than four hundred souls. Thus in various States of the Union we see the borough, the town, the village, the city, all meaning essentially the same thing, all derived from the municipal life of England. They might all have been styled boroughs, but it was the taste of the people to call them otherwise.

It may perhaps insure greater clearness to explain here that we have used the word "town" in this paper as it is used in Pennsylvania, where it is applied indifferently to a large village, a borough, or a city, but not to the township. The term borough has not this general application, like the town, but always means the incorporated village or town possessing a particular form of government. Boroughs are by courtesy sometimes called cities, but cities are not called boroughs.

Writers upon the political history of Pennsylvania have, so far, given little or no attention to her borough system. This may partly arise from the fact that there were but few boroughs in the early years of the colony, and these had no greater signification in the general politics of the province than the township. Being so few and small, and without separate representation in the Assembly, they escaped notice. Mr. Foster has ably shown us what political influence has been exerted upon Rhode Island by her towns throughout the whole extent of her history.[1] No such dominant power was exerted by the towns of Pennsylvania. Nevertheless, in the quiet of her early years, the Keystone State was laying

[1] See Foster's "Town Government in Rhode Island:" Johns Hopkins University Studies, Fourth Series, No. II.

the foundations of a borough system that has since become a most important factor in her local government. To judge how important this factor has become, let us first take a view of the outward progress of the towns before beginning the study of their government. Let us see what care was taken to foster their growth.

Growth of Towns.

It is now a little over two hundred years since the good ship "Welcome" sailed up the Delaware with William Penn and his companions on their way to build a new State. Many great changes has Pennsylvania seen since that day. Within the limits of the province the little village of Upland was then the nearest approach to a town. It had been founded by the Swedes about the year 1645, and in 1682 it possessed a mixed population of Swedes, Dutch and English, and had a court with jurisdiction over the neighboring territory along the Delaware, but it was not an incorporated village. For some reason Penn changed its Swedish name to Chester.

When he erected the three counties of Chester, Philadelphia and Bucks, he made Chester "shire town" of the county which took its name, and here was passed the "Great Code of Laws" for the guidance of the new commonwealth. Upland had been living and growing as best it might, with little thought of companions or rivals, but with the arrival of Penn came a new era of planting villages and towns, and Upland awoke one day to find itself distanced by a younger competitor. The builders of the province were very anxious to establish towns, for they recognized them as the nerve centres of the body politic. The land system they adopted was intended to promote rapid settlements and encourage towns, but the wisdom of their ways is not always apparent. William Penn adopted no new system of distributing lands peculiar to Pennsylvania, but followed the examples of neighboring provinces. Especially was his own personal experience in the settlement

of West Jersey of value to him, and in general he introduced the same system with modifications into his own province. For example, the constitution of the land office became almost the same as provided for in the West Jersey "concessions." In Pennsylvania it consisted of the secretary, auditor-general, receiver-general, surveyor-general, the deputy surveyors, and the commissioners of property, who acted in the proprietary's place during his absence, with authority to purchase lands and grant them for such sums or quit-rents as they deemed reasonable. By the Frame of Government of 1683, there was to have been a "Committee on Plantations" in the Provincial Council, with the special duties of locating cities, ports, market-towns and highways, but as the council was much smaller than originally intended, no committees were created, and such matters were settled by the whole council. With the commissioners, the council and the special land officials, Pennsylvania was not lacking in men to carry out a consistent policy, but unfortunately she was lacking in a sound system that would inspire confidence and secure satisfaction among new settlers. Mr. Gordon, who has carefully studied this subject, tells us that there was no general and accurate system for the division of lands. "No system whatever," he says, "can be traced in the records of the land office."[1] Another high authority says, "In the times of the proprietaries the land office was said by the legislature to be pretty much of a mystery. This is not to be wondered at when it is considered that the grants of lands and confirmations of titles were matters in the breasts of the proprietaries and their officers, who dispose of their territory according to their own will and pleasure, professedly by formal methods, but frequently by informal modes and agreements of their own, varying with the expediency of the times or the change of officers, or special influences."[2] It was often

[1] History of Penna., p. 549.
[2] Sergeant's Land Laws of Penna., p. vi.

the case that more than one system was in operation in the province at the same time, and it is manifest that such a lack of fixed policy must have retarded the growth of the colony. The large number of officials simply made confusion worse confounded. The quit-rents to which most of the lands sold by the proprietaries were subject, were most vexing to the spirit of the settlers, and kept them in a chronic state of unrest. The first purchasers under William Penn paid one shilling a year for a hundred acres,[1] but a half-penny or a penny an acre became more customary rates later, and sometimes the exactions were heavy enough to check materially the growth of a town.[2]

Offsetting these disadvantages were other influences that encouraged town building, especially the personal influence of the proprietaries, who owned large tracts of land known as manors, reserved from the Indian purchases. In the "Concessions" of Berkeley and Carteret in East Jersey these rules were expressed, "That in Laying out Lands for Citties Townes Villages Burroughs or other Hamletts, the said lands be devided into seaven parts, one seaventh part whereof to be by Lott laid out for us, and the rest devided to such as shalbe willing to build thereon, they paying after the rate of one halfe penny or one penny p'acre according to the value of the Lands yearly to us."[3] Penn pursued a similar plan on the west side of the Delaware. At first from every hundred thousand acres sold or surveyed, one-tenth was to be reserved to himself, to be kept together in one tract. Later instructions to his surveyors indicate that the proprietary share was increased beyond the original tenth. It became an

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[1] Gordon's History of Penna., p. 550.

[2] Quit-rents and quarreling over the same lots retarded the growth of York. This confusion was probably increased through the neglect of the land office to give proper titles or record the deeds of sale, for the officers were remiss in these important duties. John Penn himself, once stated that the deeds were not always recorded. Hist. of York, p. 35.

[3] New Jersey Archives, vol. I., First Series, p. 42.

object of the proprietaries to have these manors settled, and it several times occurred, as in the instances of York and Pittsburg, that the proprietaries directed that towns should be laid out in their manors and lots offered for sale.

In 1681, Penn issued his "Conditions or Concessions" which were agreed to by his purchasers. They are interesting and instructive as being the most definite expression of his plans of settlement. They were not new however, except in details, for the policy of issuing such instructions had been pursued in New Jersey. In 1665, Berkeley and Carteret made certain "Concessions and Agreements" which served as a model twelve years later for the "Concessions and Agreements" of the West Jersey Proprietors, and these in turn served as suggestions for Penn's "Conditions or Concessions." As Penn was one of the proprietaries who authorized the "Concessions" of 1677, we see how natural it was for him to adopt similar measures in his own colony. One of the first things the proprietaries of West Jersey did towards settling their province was to issue instructions to their commissioners in 1676 to sound the Delaware and find a good healthy location for a town where navigation was also possible. It is curious to note likewise, that the first thing to be done in Pennsylvania was to sound the river and found a city, that it might be the centre of trade and the political capital of the territory. So important was it held to found this city at once for the colony, that the first article in the "Conditions" of 1681 begins by saying "That so soon as it pleaseth God that the abovesaid persons arrive there, a certain quantity of land, or ground plat, shall be laid out for a large town, or city, in the most convenient place upon the river, for health and navigation; and every purchaser and adventurer shall, by lot, have so much land therein as will answer to the proportion which he hath bought or taken up, upon rent."[1] It was fully expected that more than one city would

[1] See Conditions or Concessions in 2nd vol. of Poore's Charters and Constitutions of U. S., p. 1516.

find a local habitation and a name, for the same article continues thus—"But it is to be noted that the surveyors shall consider what roads or highways will be necessary to the cities, towns, or through the lands. Great roads from city to city not to contain less than forty feet in breadth, shall be first laid out and declared to be for highways, before the dividend of acres be laid out for the purchaser, and the like observation to be had for the streets in the towns and cities, that there may be convenient roads and streets preserved, not to be encroached upon by any planter or builder, that none may build irregularly to the damage of another."

Not having visited his colony, Penn thought that Upland might be a good place for his city. He instructed the commissioners who came over before him, to sound his side of the Delaware, "especially Upland, in order to settle a great towne." "Be sure to make your choice" said he, "where it is most navigable, high, dry and healthy. That is, where most ships may best ride, of deepest draught of water, if possible, to load and unload at ye Bank or Key side, without boating and litering it. It would do well . . . yt the scituation be high, at least dry and sound, and not swampy, wch is best Knowne by digging up two or three earths, and seeing the bottom."[1] Having found such a choice spot, they were to lay out ten thousand acres contiguous to it as the "bounds and extent of the libertyes of the said town." In laying out the lots they were to "let every house be placed in the middle of its platt as to the breadth of it, so that there may be ground on each side, for gardens or orchards, or fields, that it may be a green country Towne, which will never be burnt, and allways be wholesome." The original intention was to lay out the city on a large scale; the agreement was that the adventurers were entitled to city lots in the proportion of ten acres to every five hundred bought in the country, if the place would allow it, but it would not. Such a ratio would

[1] Hazard's Annals of Penna., p. 528.

have required a "greene country Towne" of six or seven thousand acres, whereas the plot of the city contained but eleven hundred and eighty acres, or less than two square miles. To allow each purchaser as much as was first intended would have made the town more suitable for farming than anything else. The plans were changed and smaller lots were given in the town, but the owners were allowed to make up their proportion in the adjacent liberty lands. Penn, himself, gave up his own tenth and said to his commissioners, "I shall be contented with less than a thirtyeth part to witt three hundred acres." As the plot contained less than 1200 acres, it is to be presumed that he reserved still less than this. Mr. Gordon says "there is no record of this alteration, nor any written evidence that it was approved by the inhabitants, but a regular series of uniform facts upon the books of the land office establish it beyond a doubt."[1]

The commissioners looked about them to get a suitable locality, but did not fix upon any spot with certainty till Penn came, when they suggested the location between the Schuylkill and Delaware, which the proprietary wisely determined should be the place of his first great experiment in founding a city. He soon went to work with his surveyor-general, Thomas Holme, to lay out the city for which he had already chosen the name of "Philadelphia."

The streets were laid out in the well-known checker board style, nine running from the Delaware to the Schuylkill, and twenty-three crossing these at right angles, running north and south, all varying from 50 to 100 feet in width. Five squares of several acres each were located in different parts of the town. These, in brief, were the main provisions about laying out the first city of Pennsylvania, the one that has been a pattern for all the rest. After the work was accomplished the founder was pleased to write to the Free Society of Traders in London, in 1683, that "Philadelphia, the expecta-

[1] Gordon, p. 78.

tion of those that are concerned in this province, is at last laid out, to the great content of those here, that are anyways interested therein."[1] In a letter to the Marquis of Halifax, in Feb. 1684, he says, "Our capital town is advanced to about one hundred and fifty tolerable houses for wooden ones; they are chiefly on both navigable rivers that bound the ends or sides of the town. The farmers have got their winter corn in the ground. I suppose we may be five hundred farmers strong. I settle them in villages dividing five thousand acres among ten, fifteen or twenty families as their ability is to plant it." What a really beautiful picture of colonization Penn sets before us! As the colonists come pouring into Philadelphia from various parts of Europe, we see them striking out in all directions into the new and untried regions, families and friends joining together and dotting the landscape with their little villages. What a common religion, mutual interests or ties of blood and friendship naturally do to draw the people together, the proprietor wisely encourages.

In the fourth article of the "Conditions" it was specified "that where any number of purchasers, more or less, whose number of acres amounts to five or ten thousand acres, desire to sit together in a lot or township, they shall have their lot or township cast together, in such places as have convenient harbours, or navigable rivers attending it, if such can be found." It often happened that several families taking up a tract would from natural causes soon form a village in the township, and this gregarious instinct of man seems to have been anticipated in some notable instances where a plan was formed to have at the centre of the township a townstead or village, in which each purchaser of land in the township was to have a share of lots.[2]

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[1] Proud's History of Penna., Vol. I., p. 262.

[2] Thomas Holme's map of 1684, to be found in the library of the Penna. Historical Society at Philadelphia, contains the plans of the early surveys. It will be noticed that the township of Newtown in Bucks County was laid

In Penn's second extended account of the province to the Free Society of Traders, he says: "We do settle in the way of Townships or villages, each of which contains 5000 acres, in square, and at least Ten Families; the regulation of the Country being a family to each five hundred acres. Some Townships have more, where the interests of the people is less than that quantity, which often falls out. Our Townships lie square; generally the village in the Center; the Houses either opposit, or else opposit to the middle, betwixt two Houses over the way, for near neighborhood. We have another Method, that the Village be in the Center, yet after a different manner. Five hundred acres are allotted for the Village, which among ten families, come to fifty acres each. This lies square, and on the outside of the Square stand the houses, with their fifty acres running back, where ends meeting make the Centre of the 500 acres as they are to the whole. Before the doors of the Houses lies the High way, and cross it every man's 450 acres of Land that makes up his complement of 500, so that the Conveniency of neighborhood is made agreeable with that of the Land." Here were definite methods of settlement, but it was much easier to put them on paper than into practice which is fully sustained by the fact that the plans were very soon lost sight of, and surveys were made promiscuously as the purchasers wished, with no regard to townships or villages. As early as 1687 Penn issued a proclamation concerning the seating of land, designed to

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off with a townstead of 640 acres at its centre (the number of acres is given in Davis's History of Bucks County, p. 232). Around it, radiating from this centre, were marked off sixteen narrow wedge-shaped farms extending to the limits of the township. The farms have lost this peculiar shape, but the townstead remains the site of the present borough. Wrightstown township was laid off in the same way, and the village on the old townstead has always been called Penn's Park. This plan of surveying townsteads was not followed frequently enough to call it a system, but the case of Newtown is one interesting instance of the origin of a flourishing borough.

enforce the neglected regulations, but it had little or no success. For many years however (probably down to 1784), the clause "according to the method of townships appointed by me" was inserted in the warrants, though it had long ceased to have any force.[1]

There was no settlement that grew with anything like the rapidity of Philadelphia, and it was many years before any village reached a thousand inhabitants. Philadelphia prospered so well that Penn desired to try his hand again at city building, and published proposals in London in 1690, to locate a city on the Susquehanna river. "There I design," he says, "to lay out a plan for the building of another City, in the most convenient place for communication with the former plantations on the East: which by land, is as good as done already, a way being laid out between the two rivers very exactly and conveniently, at least three years ago; and which will not be hard to do by water, by the benefit of the river Scoulkill; for a branch of that river lies near a Branch that runs into the Susquehannagh River, and is the Common Course of the Indians with their Skins and Furrs into our Parts, and to the Provinces of the East and West Jersey, and New York, from the West and North west parts of the continent whence they bring them." Though this was eight years later than the founding of Philadelphia, he had not yet given up the idea of proportionate ownership in town and country, for he says "I do also intend that every one who shall be a Purchaser in this proposed settlement, shall have a proportionable Lot in the said City to build a House or Houses upon."[2] The shares of land were to be three thousand acres each to be sold for £100 a share, and at that rate for greater or lesser amounts. No quit-rents were to be

[1] For the subject of the settlement of Pennsylvania, and an exhaustive treatise on the land titles, see articles by John M. Scott in Hazard's Register, vols. XII. and XIII. See vol. XII., p. 342, for criticism on the township method.

[2] Hazard's Register, p. 400, vol. I.

demanded till five years after settlement, and then but a shilling for a hundred acres. As the project came to naught, we must infer that there was no disposition among the people of England to invest, and no conviction that another commercial centre was then necessary. It was left to a pioneer late in the next century to found this city on the Susquehanna.

We have quoted thus at length from the writings of William Penn concerning his new colony, to indicate not only the methods of settlement, but his great personal influence in the outward form which the colony assumed: to bring forth one more evidence that he was not only the statesman and philanthropist, but the active man of affairs, and while entertaining the sublime principles of civil and religious liberty, and battling for their advancement in two hemispheres, he still had time for the practical details of colonizing a state. Enough has been said to convey the idea of town building in the colonial period. The sons of Penn introduced no new theories over which we need tarry, and the same personal interest is not attached to them that belongs to their greater father.

Legislative and Other Influences.

When the proprietary government ended, the State legislature continued the work of promoting settlements. Several towns were laid out by direction of the legislature, especially in the western part of the State, during the last part of the eighteenth and the beginning of this century. The establishment of Erie was through such legislative influence. In 1795 the Governor was instructed by act of assembly to appoint two commissioners to survey town lots and out lots. No town lot was to be more than two-thirds of an acre, and no out lot more than five acres. The Governor was to sell one-third of the town lots, and one-third of the out lots surveyed, under the condition that the purchaser, within two years from the time of sale, should erect on each lot "one house, at least sixteen feet square, and containing at least one

brick or stone chimney."[1] The same commissioners were also instructed to lay out the towns of Franklin and Warren, and in 1796 the legislature, we find, passed an appropriation bill of $4,719.63, to pay a debt incurred in laying out these and other towns in that part of Pennsylvania.[2] Notwithstanding the encouragement given to towns by the proprietaries and the legislature, their growth was retarded by various causes in the eighteenth and the first part of this century. The population in the early days was largely agricultural; we have seen that the land office lacked system, and consequently there was much uncertainty of titles, especially to western lands, which checked the growth of population considerably;[3] border life was full of dangers in the eighteenth century; the quit-rents were obnoxious and a source of dispute; and when the mines and forests began to be utilized, there was a lack of means of transportation to convey their products to good markets.[4] When a better system of internal communication was established, and the hidden resources of the country were more extensively developed, the growth of towns received a new impetus. It was no longer necessary for the government to lay out towns; private individuals with an eye to fortune promptly came forward. About the years 1828 and 1829, when the coal mines were opened and internal improvements rapidly projected, intense excitement prevailed in some counties, and the wildest speculation in town lots set in. It is said that in Schuylkill county nearly all the towns have been laid out by speculators. Pottsville is a conspicuous example of this exciting time, and its growth was then considered chimerical, though since far surpassed by many cities. It increased from five houses in 1824 to five hundred and thirty-five in 1831, and in 1880 its population reached 13,253.

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[1] Laws of Penna., vol. III., p. 758.
[2] Laws of Penna., vol. IV., p. 67.
[3] History of Western Penna., p. 49.
[4] Gordon's Gazetteer of Pa., p. 33.

The town had its origin in a spirit of rivalry. Several prominent adventurers laid out towns in the same vicinity, each on a favorite location. Town lots doubled, trebled and quadrupled in price as the more greedy speculators came, and they passed from hand to hand like currency. In 1828 several of these villages were incorporated into the borough of Pottsville[1] making a town of "magnificent distances." The same features of the sudden rise of towns in the mining districts has also been witnessed in the oil regions of the State, but the "oil town" has its ups and downs, and like the oil well is not a constant quantity. Many a little village that has lighted its borough lamps in the first flush of success has failed to keep them burning, has abandoned its organization and gone into an early decline.[2] In Crawford county five of its smaller boroughs have decreased in population between 1870 and 1880, whilst others have sprung into life. Other counties have the same experience to tell.

Last among the important causes of town life, and the most important, is the manufacturing industry, too common a feature of the country to need any further comment. It will be seen in reviewing the history of the towns, that they have long since outgrown the first discouraging influences, and in the nineteenth century they have made a rapid advance. In 1880 the census gave the number of boroughs then existing as 549, with a total population of 713,714, giving to each an average of 1,300. This large number is owing to the absence of any limits to the size of a borough; consequently they range all the way from the tiny village with a score of houses to the great town of York with probably sixteen thousand people. The population of the twenty-four cities of Pennsylvania was 1,419,159 at the same period, so that one half the

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[1] Day's Historical Collections, p. 60.

[2] Some towns in the mining regions have also decreased, but the instability is most conspicuous in the oil regions. Greece City and Pitt Hole City are good examples of towns abandoning their borough governments.

State population was then living in boroughs and cities. In addition to this, it was estimated that there were thirty-one towns with upwards of one thousand inhabitants each, yet unincorporated and consequently subject to township legislation. These, in time, will become boroughs together with many of the smaller villages.

These figures it is hoped will show in an outward way the position and relative importance of the borough system in the municipal government of Pennsylvania. Let us now turn from numbers to the more immediate line of our study, the historical development of the borough organization.

Borough of Germantown.

The first borough organized in Pennsylvania of which we have any account was Germantown,[1] and the history of its government forms the most curious and interesting chapter on the early boroughs. It was founded by a colony of Men-

[1] If Philadelphia was ever a borough it matters little in our study, for no records are preserved of such an organization, at least, historians and annalists of Philadelphia make no mention of any. The exact nature of its government between 1682 and 1701, the time when it became a city, has never been very adequately treated. Even the last encyclopedic work of Scharf and Westcott fails to do so. From the scattering records we meet in the minutes of the provincial council, in reference to the municipal affairs, it seems quite clear that the council and the county court of Philadelphia exercised considerable authority in governing the town during this period. For instance, in July, 1693, the Governor and council endorsed an order of the county court against negroes of the county round gathering in the town of Philadelphia on First-days.* In another case the court ordered the inhabitants along Front street to represent to the council the need of a channel to convey the water. The inhabitants consented to have the water-way, and the council thereupon ordered three men to oversee the work.† In October, 1693, the governor and council issued their regulations controlling the market, ‡ and the clerk of the market was also appointed by

* See first vol. of Colonial Records, p. 341.
† See first vol. of Colonial Records, p. 343.
‡ Colonial Records, vol. I., p. 353.

nonites from Germany and Holland, many of them from the town of Crefeld, still so noted for its weaving. Penn had preached among these people, and many of them inclined to his faith, hence they were the more willing to come and settle in his province. A number of them came and settled near Philadelphia in 1683. Among them was one Francis Pastorius, a highly-educated man, who easily became the leading spirit among them and acted as their agent or trustee. Several thousand acres were laid out in 1684, and the purchasers met in Pastorius's cave to draw lots for situations, then began to build huts and dig caves* for their winter shelter. Their first settlements were not at all compact, but they soon began to build a village. Pastorius has given us an interesting record of this beginning. "On the twenty-fourth day of October, 1685, have I, Francis Daniel Pastorius, with the wish and concurrence of our Governor, laid out and planned a new town which we call Germantown or Germanopolis, in a very fine and fertile district with plenty of springs of fresh

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the council. In 1694 the council issued an order for laying out a street upon petition* from the inhabitants. In 1699 the people of the town signed a petition setting forth the neglect of the care of streets, and requested the council to appoint persons to remedy this.† These facts would point to the absence of any organized borough government. On the other hand there are a few things to keep us from denying positively that Philadelphia was ever a borough. In the minutes of the provincial council in July, 1684, it is recorded that Thomas Lloyd, Thomas Holme and William Haigne were appointed to draw up a borough charter for Philadelphia, providing for a mayor and six alderman. Watson, the annalist, says that the town had a mayor named Humphrey Murrey signing its official acts in 1691.‡ In the preamble to the first city charter, in 1701, Wm. Penn said that he had "by virtue of the King's letters patent, under the great seal of England. erected the said town into a borough, and by these presents do erect the said town and borough of Philadelphia into a city." We are obliged to leave this subject without further investigation, for the present, not having access to anything that is at all conclusive on the subject.

*Colonial Records, vol. I., p. 409.
†Col. Records, vol. I., p. 527.
‡Watson's Annals, vol. I., p. 25. (Edition of 1850).

water, being well supplied with oak, walnut and chestnut trees, and having besides excellent and abundant pasturage for the cattle. At the commencement there were but twelve families of forty-one individuals, consisting mostly of German mechanics and weavers. The principal street of this, our town, I made sixty feet in width, and the cross streets forty feet. The space or lot for each house and garden I made three acres in size; for my own dwelling however, six acres."[1] The cross streets did not have many houses however, and the village consisted mainly of one long street with houses on each side, generally with their gabled ends towards the highway. These weavers proved to be as industrious as spiders; their village flourished, and they set a good example of industry to the neighborhood. Weaving, making paper and digging gardens became a little monotonous in time, and they tried to throw more variety into life by going into politics. In 1689 a borough charter was procured which did not go into effect till 1691, when Germantown properly became a borough. This being the oldest borough charter known to exist in Pennsylvania, it is highly important to examine it with care, especially as it bears a closer analogy to the old English borough charters than any subsequent ones. This quaint document abounds in strange German names in its preamble, which is as follows: "I William Penn, Proprietor of the Province of Pensilvania in America under the Impe-riall Crown of Great Brittain by virtue of Letters Patents under the great seale of England DO grant unto ffrancis Daniel Pastorius, Civilian and Jacob Telner Merchant, Dirck Isaacs Optegraaf Linen maker Herman Isaacs Optegraaf, Towne President, Tennis (?) Abraham Isaacs Optegraaf Linen maker Jacob Isaacs, Johannes Casselle, Heywart Hapon (?) Cœnder Herman Bon, Dirck Vankolk, all of

[1] Memoirs of Penna. Historical Society, vol. IV., p. 90. For the general subject of the settlement see S. Pennypacker's articles in vol. I. of Pa. Hist. Magazine.

German Towne, yeomen that they shall bee one Body pollitique and corporate aforesaid in name, and by the name of the Bailiffe, Burgesses and Comonalty of German Towne, in the County of Philadelphia, in the Province of Pensilvania."[1] These persons and their successors, under the corporate name of the borough, were to be at all times thereafter "able and capable in law with joynt stock to trade, and with the same or any part thereof to have, take, purchase, possess and enjoy Manors, messuages and lands, tenements and rents of the yearly vallue of fifteene hundred pounds per annum."

One of the corporation was to be elected the bailiff, and four others the burgesses. Six of the members were to be chosen committee men, and these, with the bailiff and burgesses were to be called "the General Court of the Corporacon of German Towne." The bailiff and two burgesses, or three burgesses in the absence of the bailiff, and four committee men were necessary to make it a General Court and enable them to transact business. The court could be summoned whenever it was thought advisable; it had the legislating power to enact such "good and reasonable laws, ordinances and constitutions" as were deemed necessary for the welfare of the borough; it could impose fines, fill any vacancies in the offices, and admit others to membership in the corporation. Once a year the court was to meet and elect the officers of the town from the members of the corporation. Thus this little borough began its political career by limiting the right of full citizenship to a select few. To be outside the corporation was to be politically *nil.* This was much like the custom in the boroughs of England. There were very few boroughs that had charters designating the corporation as a small definite number of persons, but, as stated by the municipal commission of 1835, "in many places, custom (supported by the silence of the charters as to any general right to the franchise, and by its disuse and oblivion, where any such may

[1] Penna. Archives, vol. I., pp. 111–115.

have formerly existed) has practically established the same restricted contribution."[1] The freemen in the English borough in many cases lost all share in electing the corporate officers. This same evil we see was introduced at Germantown, but it never extended to any subsequent borough, and remains the solitary instance of such a restricted franchise. In the later boroughs the electoral privileges were nearly or exactly the same in municipal affairs as in voting for members of the general assembly.

The members of this general court at Germantown, or any three or more of them, including the bailiff and two burgesses, or in his absence, three burgesses, were authorized to conduct the government of the corporation according to the rules of the general court and their best judgment. It was necessary for the court to have a seal, so Pastorius chose the appropriate design of a trefoil or clover-leaf, on one leaf being a vine, on another a stalk of flax, and on the third a weaver's spool, with the motto—"Vinum, Linum, et Textrinum."

The bailiff and two oldest burgesses were to be justices of the peace, and clothed with full powers of such officers. A public market was allowed every sixth day in the week. The charter also granted the bailiff, burgesses and commonalty the right to hold a court of record every six weeks in the year, in the presence of the bailiff and three of the oldest burgesses of the corporation, "to hear and determine all civil causes, matters and things whatsoever, arising or happening betwixt the Inhabitants of the said corporacon." The court of record for the trial of petty cases was an old institution in the boroughs of England. It was never so important there as the court of quarter sessions, and in many boroughs fell into disuse. Its survival in Germantown makes one of the most conspicuous features of its borough government.[2] This won-

[1] Report from Commissioners on Munic. Corpo. in Eng. and Wales, p. 18.

[2] See Charter of Philadelphia for 1701, which also provided for a court of record. Proud's History of Penna., vol. 2. Appendix No. 6.

derful tribunal began its sessions in 1691. "The sixth day of the eighth month the first Court of Record was held at Germantown in the publick meeting house before Francis Daniel Pastorius Bailiff, Jacob Telner, dirk Isaacs op de Graef and Herman Isaacs op de Graef, three eldest burgesses, Isaac Jacobs van Bibber, Recorder, Paul Wulf (?) Clerk Andrew Soupli, Sheriff, van Luken, Constable, Proclamation being made by Andrew Soupli the Charter was read the officers attested."[1] The first case for consideration was one concerning Caopan Caristen and his wife, who were both bound over to the court for menacing the constable when trying to serve a warrant on them. The majesty of the law asserted itself; the unfortunate couple submitted to the bench and were fined two pounds ten shillings. This being the sole business, the court adjourned till another month. Often there was no business before the court, and such cases as did come up were such as are now settled by a borough council or a justice of the peace. We read in the records that the overseers of fences made several complaints about the insufficient fence of Hermann and Abraham op de Graef and others; that there were frequent violations of the liquor law by selling without a license, and on one occasion "The Sheriff Jonas Potts, gave Abraham op de Graef the lie for saying that the said sheriff agreed with Matthew Peters to take his fees, 7 s. 6 d., which upon acknowledgment was forgiven and laid by." The most remarkable record of the court, and a model of its kind, is the verdict of a coroner's jury, who, after due deliberation, no doubt, returned the verdict, "We the jury, find that through carelessness the cart and the lime Killed the man, the wheel wounded his back and head, and it Killed him."

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[1] The original records, written in fine German script in the German language, may be seen in the library of the Penna. Hist. Society, at Phila. The court ordered its records transcribed into English and these may be seen there also. Extracts are printed in S. Pennypacker's Sketches of Germantown, and also in Watson's Annals of Philadelphia. See also Coll. of Hist. Soc. of Pa., vol. 6, p. 243.

The possession of this court led the citizens to believe that they should be independent of the authority of the Philadelphia county court. They lived to themselves, settled their own quarrels, and the court of record even ordered the overseers of ways to cause certain roads to be made; they believed the county was not essential to their happiness or welfare. When urged to pay their share of the county taxes they demurred, and on January 5th, 1701, the corporation presented a petition[1] to the provincial council, stating that they considered themselves exempt from the county court, as they had their own magistrates and defrayed all their own expenses without aid from the county; they did not care to support a government with which they had nothing to do, and wished the Governor to declare them exempt. They were told that they had the right to vote for the members of the general assembly, and received the benefit of the roads outside their borough limits, which were constructed at the expense of others. The Governor and council adhered to their policy of making the county sovereign over the smaller divisions. It was ordained in the court laws of Germantown that once a year the people should be called together and the ordinances read aloud to them. Mr. Pennypacker exclaims,[2] "Oh ye modern legislators! think how few must have been the statutes, and how plain the language in which they were written in that happy community."

It was with difficulty that the corporation maintained its existence, as the people cared little for politics, especially courts. In a letter to Penn, Pastorius once expressed a concern that he should not be able to get men to serve in the general court for "conscience sake," and he trusted to find a remedy in the expected arrival of some immigrants.[3] It was said "they would do nothing but work and pray, and their

[1] See Colonial Record, vol. II., p. 8.
[2] Historical Sketches, p. 47 or vol. I., Penna. Magazine of Amer. History.
[3] Hazard's Register, p. 280, vol. I.

mild consciences made them opposed to the swearing of oaths and courts, and would not suffer them to use harsh weapons against thieves and trespassers."[1] At last in 1707 they failed to find officers enough to serve, and as there could be no due elections they forfeited their charter. This non-political attitude, so characteristic of the average German of that day, can scarcely be understood now by our local politicians whose crowning glory is to fill some minor office. It was rather through religion than law that these praying Teutons chose to govern their fellow men.

The movement to incorporate Germantown was premature. The village being only a long street of houses needed no other regulations than those which the township could readily provide, and it remained under the township's authority till near the middle of this century when it again became a borough.

This short-lived municipality holds a unique place in the history of Pennsylvania boroughs. Though settled by Germans its form of government was supplied by the proprietary, and in its form it is more nearly identical with the boroughs of England than any town settled wholly by the English. The bailiff and sheriff, the port reeve and shire reeve of Anglo-Saxon days, are both absent from the later boroughs and likewise the recorder. In no other borough of Pennsylvania has there ever existed a corporate body independent of the community as at Germantown. This was a radical defect in the municipal corporations of England and Wales,[2] happily avoided in the new province. The growing political freedom would not long have tolerated such an innovation of popular rights, had it again been attempted. As there was no restricted corporation in the later Pennsylvania boroughs

[1] Historical Sketches, p. 48.

[2] Report of Municipal Commission (1835), p. 32. According to Merewether and Stephens in their History of Boroughs and Municipal Corporations (p. xx.), large numbers of freemen were often made burgesses by being admitted to the corporations on the mere caprice of the members, and this served to keep the authority in the hands of a few.

there was also no court of the corporation, and the legislative body became the borough council elected by the citizens.

Having reviewed the constitution of this borough at length, we are better prepared to explain how the boroughs came to be adopted in Pennsylvania, which also involves the general question of the introduction of the whole system of local government. The order of creation of the political divisions under Penn's proprietary government, was first the erection of the three counties of Chester, Philadelphia, and Bucks (at first called Buckingham); second, the laying out of townships as fast as parties bought the lands and desired them surveyed; and third, the incorporation of towns or villages. The existence of the county is readily accounted for, both from its previous introduction into the adjacent colonies of Maryland and New Jersey, and the importance of the shire as an administrative division in England. But to account for the township, and the peculiar division of powers between it and the county, is not at first so easy. Why was not the town system[1] that existed under the Duke of York's laws perpetuated, or the New England town system adopted, or why was not the county made still more important, as in Virginia? We believe that a probable explanation of the facts is to be found in the local government of New Jersey. In East Jersey under the proprietaries Berkeley and Carteret, several towns were settled of five or ten thousand acres each, which had their town courts, and were even provided with charters[2] for their better government, and the freemen were allowed to choose their own magistrates. These towns were the same institutions that Penn found on the Delaware. They were practically independent communes till 1675, when the assembly of East Jersey enacted that the whole province should come under the jurisdiction of the county courts.[3] This

[1] For an account of this system, see University Series I., No. 3, Part 2.
[2] Collections of N. J. Historical Society, vol. I., p. 184.
[3] Ibid., vol. I., p. 94.

made the county supreme over the town. In West Jersey the counties and towns also became the political divisions, and in 1682 Burlington and Salem counties were given county courts by act of assembly.[1] As Penn and other Friends were deeply interested in the Jerseys, and acquainted with their institutions, it is reasonable to suppose they would establish quite similar institutions on the other side of the Delaware.

When the counties were introduced into Pennsylvania with their courts having authority over the township, as in New Jersey, it is evident the old system of town courts was no longer necessary, and with the abolition of this institution, the transition from the Duke of York's town to William Penn's township became at once easy and natural. The township, as established in Pennsylvania, was less adapted to governing large villages than the New England town system, and it followed of necessity that villages desiring better improvements and regulations than the township would give them, must be specially incorporated, and the first village that received a municipal charter took the good old English name of "borough." This was at a time when there were no boroughs in New Jersey, New York, Maryland or Virginia, and New Castle was the only incorporated town on the Delaware. In the minutes of the Council at Fort James, New York, of May 17th, 1672, we read that it was ordered as follows: "That for y^e^ better Governm^t^ of ye Towne of New Castle for the future, the said Towne shall be erected into a Corporacon by the name of a Balywick, That is to say, it shall be Governed by a Bailey and six Assistants, to bee at first nominated by the Governor and at y^e^ expiracon of a yeare foure of the six to go out & foure others to be named to succeed out of whom y^e^ Governo^r^ will elect one; Hee is to preside in all y^e^ co^trs^ of the Towne & have a double vote. A constable is likewise annually to be chosen by y^e^ Bench. The

[1] Ibid., vol. III., p. 24.

Towne Court shall have power to try all causes of debt or damage to the value of ten pounds without appeal."[1] This seems to have been the only possible colonial town that could have suggested a borough system for Pennsylvania, and though the constitutions of Germantown and New Castle reveal some similarity in details, they differ too much to consider the former a copy of the latter. The essential difference between them was this, that the borough had no jurisdiction over the surrounding country, as did the bailiwick, which was consistent with the old idea that a bailiwick signified either a county in which the sheriff exercised jurisdiction as bailiff of the king, or it meant the liberty or franchise of some lord who had exclusive authority within its limits to act like the sheriff of the county.[2] There is but one inference left us and the one strongly sustained by the character of the Germantown borough and its successors, that Pennsylvania owes her borough system to the direct influence of Mother England, whose numerous examples became the models for another institution that her partially developed local government seemed to require.

Borough of Bristol.

The boroughs erected in Pennsylvania during the eighteenth century were Chester in 1701, Bristol in 1720, Lancaster in 1742, Carlisle in 1782, Reading in 1783, York in 1787, Easton in 1789, Harrisburg in 1791, Pittsburg in 1794, and Lebanon and West Chester in 1799. Of these the borough of Bristol, now a thriving town of some six thousand inhabitants, will serve as a fair type of the borough of the last century. It is pleasantly situated on the Delaware, about eighteen miles above Philadelphia, and nearly opposite

[1] Documents on Col. Hist. of N. Y., vol. XII., p. 496.
[2] See the Dictionary of English History.

the city of Burlington, which was the outgrowth of those instructions to the commissioners of West Jersey in 1676.

Bristol owes its origin to the desire of the earliest settlers in the lower part of Bucks county, and especially those in what was once called Buckingham township (now Bristol), to establish a market town for the county. In accordance with this want, several persons in the county selected the site of the present town, and "projected the same into ways and streets, having regard to the divisions of divers men's Land by the sd streetts in the sd town."[1] They then desired the Governor and council to smile approvingly on their work, and asked them to make such changes as they thought desirable, also to grant them a weekly market and permission to build wharves. The council considering the request so reasonable, erected the town in 1697, which means simply that they approved of what had been done, granted a few privileges, and promised to have an eye on the place in the future. By the year 1720, the inhabitants thought it to their advantage to be incorporated, and a number of them petitioned the Governor Sir Wm. Keith for a borough charter, which he granted under the authority of the Crown of England. It was much briefer than many of the later documents, especially the charter of Carlisle, a document of fifteen folio pages. It defined the boundaries of the town, ordained certain streets, regulated their width, and required that they should be kept free. Two burgesses, one high constable, and such other officers as were necessary to keep the peace of the borough were to be elected.[2]

The expression "keeping the peace" recalls a very old principle in the history of boroughs. Says Mr. Toulmin Smith in his Local Self-Government, "The term borough implies according to the common law of England, certain conditions and functions of local self-government inherent to

[1] Colonial Records, vol. I., p. 480.

[2] For the charter see Hazard's Register of Pa., vol. III., p. 312.

it as an associated body. Among these one of the most distinctive and express has, from the earliest times, been the control and management of all that relates to the keeping of the public peace."[1] Before the days of King Alfred a law was passed requiring 120 shillings to be paid for a breach of the peace or "burhbreache" as it was called.[2]

The charter did not definitely specify anything about the legislative body, and as the earliest records are lost, we cannot tell what was the complete organization of the government, but it was probably nearly the same as it was in 1732, when there was a common council of six, a constable, two burgesses, two assessors and a pound keeper. There was to be an annual election on a fixed day each year when the officers were to be nominated and elected by the "freeholders, officers and housekeepers of the borough." In some of the charters the language was more explicit in regard to the qualifications for voting. In Lancaster and Carlisle the electors were the "burgesses, constables, assistants, freeholders and such inhabitants, housekeepers within the borough, who have resided there one whole year preceding the election, and hired a house and ground within the borough of a yearly value of five pounds or upwards."[3] In Bristol, the burgess first chosen, or having a majority of the votes in an election, was made the chief burgess or chief magistrate of the town. The other was styled the second burgess. They were empowered and authorized to be "conservators of the peace" within the borough, and without any legal proceedings could remove nuisances and encroachments out of the streets and landing places.

As of old the officers were to be fined if they refused to serve. The fine was not to exceed ten pounds for the burgess, and five for the constable. Before entering upon the

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[1] The same author, in "The Parish," has this note on page 230. The term borough (A. S. Burh) means neither more nor less than "pledge;" that is to say, a place where all the men dwell in mutual "pledge."

[2] Merewether and Stephens, p. 17.

[3] Charter of Carlisle in Laws of Penna., vol. III.

duties of office, each officer was to take an oath as prescribed by various acts of Parliament. Friends were exempt from oaths, and qualified by "taking and subscribing the attestations or engagements" especially allowed to them. The chief burgess was obliged to go to Philadelphia within five days after the election, to be qualified before the governor or such persons as his excellency might appoint for the purpose. This chief burgess could then qualify the other officers, or it could be done by any two justices of the peace in the county. The chief burgess was a justice of the peace in the county as well as in the borough, which was a recognized custom in England at that time. For instance in the borough of Lancaster, England, by its charter of 1684, the mayor was a justice of the peace for Lancaster county during his mayoralty.[1] It was the same with the chief burgesses in the other boroughs of Pennsylvania, but it seems to have been objectionable, and the law requiring them to be justices in the counties was repealed by legislation before many boroughs were created.[2] The high constable of Bristol was made the clerk of the market and could have "assize of bread, wine, beer, wood, and other things."

It was lawful for the burgesses and constable to summon and assemble town meetings whenever they thought it advisable. At these meetings ordinances, rules and by-laws might be passed, if not repugnant to the laws of Great Britain, and the citizens could repeal or amend the same. Fines could also be imposed for violation of the ordinances. The inhabitants of Bristol seem to have put a different interpretation upon the expression "town meeting" from that of other boroughs. The town meeting in Bristol was nothing but the meeting of the town council, burgesses, and high constable, and sometimes one or two other officers as the pound keeper. This is shown from the borough records, which for many

[1] See Municipal Report of England, 1835 (Lancaster).
[2] Laws of Penna., vol. II., p. 359.

years call all council meetings "town meetings." Provision was made in most of the early borough charters for town meetings in the sense of popular assemblies of the people, but they were only called on special occasions, when an important tax was to be laid, or a charter amended or some other unusual measure was to be considered. Such meetings are occasionally held even now. As recently as 1872 at a council meeting in Bristol, so many of the citizens were present that they resolved themselves into a town meeting[1] to discuss the question of an amendment to the charter. Reading had quite an important town meeting sometime after the Revolution, when the descendants of Thomas and Richard Penn revived some neglected and almost forgotten claims, and demanded accumulated ground rents. The meeting was called to discuss the subject.[2] In 1795 a town meeting was held at Harrisburg, at which the citizens agreed to have their properties assessed for a tax of 2,600 pounds to secure the purchase and destruction of an adjacent mill-dam that was thought to be the cause of great sickness in the town.[3] In Lancaster and Carlisle the burgesses, high constable and assistants could assemble town meetings as often as they found occasion, and pass ordinances or impose fines in them. Town meetings of this description are not the same as the town meetings which include the township as well as the village, and are the regular assemblies for legislation and elections, but they rest on the same democratic idea of the rule of the many, and are Pennsylvania's truest survivals of the Teutonic folk-moot. These popular assemblies in the towns are held only at long intervals, and the main part of

[1] In 1803 the council of Bristol resolved "that any well-behaved citizens could in the future attend the meetings of the borough council, that they might know what business is done, and to form a better judgment thereof," and the chief-burgess was instructed to give due notice of the meetings thereafter.

[2] Stahle's Description of the Borough of Reading, p. 10.

[3] Annals of Harrisburg, p. 92.

the legislation is performed in the council meetings. A noteworthy example of what comes nearest to the New England town system in Pennsylvania, is that of the early history of Darby township, near Philadelphia. In the township was the village of Darby where the meetings were held. A few extracts from the township book will indicate the character of the meetings. "Agreed that this meeting begin at eleven o'clock in the forenoon, and that the constable give notice the day before." "And it is also agreed that the said town's meeting be held the third day of the last week in the twelfth month (yearly to appoint officers for the ensuing year, at which time the officers is to give up their accounts.)" Another minute reads, viz.: "Agreed that none of the inhabitants of this Town take any horses or mares, either to keep in winter or summer, nor no cattle in summer except they keep them within their own fenced lands, upon the penalty of five shillings per head for every month." The date of these and other records is not later than 1693–94. Mr. Smith says in his History of Delaware County,[1] from which these extracts were taken, that "In early times, township meetings assumed the right of enacting rules and regulations, or rather to make laws for their respective townships. Unfortunately but few of the ancient records of our townships have been preserved."

The records of Bristol borough give us a good idea of the politics of a small Pennsylvania town in the last century. The most fruitful subjects for legislation in the town council were the encroachments of buildings upon the streets, and animals straying at large. What town has ever been without its ordinances against pigs and goats, cows and horses? The usual ordinances against fire were proclaimed. Indeed the borough has not yet ceased to pass such laws. Between Bristol and Burlington was a ferry that was a matter for frequent consideration. The council would lease the ferry

[1] Hist. of Del. Co., p. 188.

and fix the rate of tolls. When the time came for the ferryman to pay his rent it mostly happened that he represented his tolls as too light to pay such a sum, and the council was always merciful enough to let him off with paying half. The rate of taxes for borough purposes was fixed by the council. In 1733 the tax levied was two pence per pound on all estates, and six shillings a head for all single men. In 1745 at a time of much expense to the town, the legislature fixed the limit of taxation at three pence a pound. Borough finances were not then so important as now. It was in the days before the public schools. The wants of our forefathers were simpler than now, and the old town pump answered in place of costly waterworks. The principal items of expense were for the repair and care of streets which were under the supervision of the burgesses and council. The taxes of the town were assessed by two assessors elected by the people. After their work was done, the council and burgesses set a day for hearing appeals, and they then rectified any errors.

The elections were not always what the citizens desired, for they were obliged to change the place of voting to a private house to avoid disturbances.

The little town had trouble with some of its citizens at other times than on election days. A record of October, 1768, gives a long account of the disorderly conduct of some of the inhabitants. The council ordered that the officers were to disperse any number of persons collected on the streets. If they were children, the parents were to be notified. The record says, "And whereas a number of the said Inhabitants and others make a practice of sitting and tippling in public and some in private houses on the said First day of the week called Sunday to the ruin and prejudice of themselves and families, it is hereby ordained that every person detected thereof, shall for every such offense pay the sum of five shillings or be confined at hard labor in the workhouse five days on an allowance of bread and water only. And the said constables and their successors are hereby enjoined to be

diligent in inspecting every suspicious house within the said borough on every the succeeding first days called Sundays in order to detect and bring to punishment every person guilty of the above mentioned crime." The workhouse, to which the miscreants were sent, was another institution from our Mother England. The legislature had given the borough the power in 1745 to erect a house of correction and workhouse "for the public use of the said Borough, to be employed for the keeping, correcting and setting at work of all rogues, vagabonds, sturdy beggars, and idle and disorderly persons, who by the laws and usage of Great Britain, or by the laws of this province, are to be kept, corrected or set at work."[1] The workhouse had its proper officers, president, treasurer, and assistants appointed by the council and burgesses, and they formed a legal corporation. The same regulations governed the institution as governed the county workhouse.

Two privileges at that time indispensable to all towns, were granted to Bristol and the other boroughs of the century, namely the markets and the fairs. The markets were allowed every Thursday in Bristol, the fairs twice a year, and two days each. Wherever the fairs were held, they were centres of attraction for the neighborhood. Many things were bought and sold, including general merchandise and often live stock. It was a time of great jollification, and the fairs in Bristol were attended by all classes. Some went to make purchases, but others cared more for a frolic. Horse racing, drinking, gambling and stealing prevailed to an alarming extent."[2] On the last day of the fair the masters allowed their negro slaves to attend, and they went in great numbers to have a jubilee. All this troubled the worthy councillors; they thought it not

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[1] Laws of Penna., vol. I., p. 211.

[2] Davis's History of Buck's Co., p. 341.

Towns occasionally had markets and fairs before they became boroughs, as was the case with both Chester and Chichester or Marcus Hook. See Smith's Hist. of Del. Co., p. 203 and note E in the Appendix.

right, and on the tenth of November, 1773, they resolved that the fair was now useless on account of the large number of stores, and that the "debauchery, idleness, and drunkenness, consequent on the meeting of the lowest class of people together is a real evil and calls for redress." They had no authority to abolish them as they were granted in the charter, so they urged the legislature to do it, but it was not done till 1796.[1] Other boroughs had much the same experience with their fairs. At York they degenerated into "wild merriment and riotous confusion," and in 1816 were thenceforth forbidden. In Harrisburg a local chronicler gives a more pleasant picture of the fair at about this period (1798). "On Friday and Saturday last was celebrated in this town the anniversary fair, with all its accustomed singularities. The lasses, as usual, assembled like bees on a summer's day. The swains, too, were very numerous; so that none of the former, it is to be presumed, went home with a heavy heart in consequence of neglect from the latter."[2] The old time borough fairs were generally given up at the close of the last century, and the agricultural and mechanical fairs in the different counties have become their survivals. In England they have held on to these time-honored institutions even later than in the United States. "Sixty years ago," says Thorold Rogers, in his treatise on Work and Wages, "a visit to an autumn fair, for the sake of laying in winter supplies, was part of the ordinary life of a small country gentleman or a wealthy yeoman," p. 148. Such were the general characteristics of the first boroughs of Pennsylvania. Some other more special characteristics, *e. g.* the relationship to the county, will be described in the account of the present borough regulations. Their organizations were not complex, and as the elections were in the hands of the main body of freemen, and there were no privileged corporations to perpetuate authority and

[1] Laws of Penna., vol. 4, p. 74.
[2] Annals of Harrisburg, p. 369.

shield abuse, no large outlays of money for improvements, to tempt the cupidity of men, and as the towns were small, and every officer known to all his neighbors, it was not possible for the boroughs to be otherwise than successful in government.

The Present Borough.

There was considerable similarity among the boroughs, for one charter often served as a model for some other, the two being in some instances almost identical.[1]

There was, however, no general legislation concerning them beyond an occasional act; every borough had to apply to the legislature for any special privilege, and the charter was always given by special act.

This did fairly well while there were not many boroughs, but in the present century, when the number began to increase rapidly, the amount of borough legislation increased correspondingly.

The act of 1834 was the first important general borough law. It gave the county courts of Quarter Sessions the power to incorporate boroughs, and change their boundaries. The most important borough act that the State ever passed was that of 1851, which was to serve as a general law regulating all the boroughs that were to be incorporated in the future, and as many of the existing boroughs as chose to accept its provisions. What the famous acts of 1835 and 1882 have been to the municipal boroughs of England, the acts of 1834 and 1851 have been in a measure to those of Pennsylvania. Though these two acts gave the courts much authority in regulating boroughs, the boroughs were not forbidden to apply to the legislature for special privileges, as

[1] Carlisle and Reading, then Reading and Harrisburg, till the charter of the latter was changed. Cf. Dr. Charles Gross, on "The Affiliation of Mediæval Boroughs," reprinted from "The Antiquary," and showing the same phenomenon of charter repetition in England.

their wants multiplied; special legislation continued, and requests of all sorts went up to the legislature from different towns. One borough wanted authority to organize fire companies; another to elect auditors, or change the time or place of holding its elections; another wished to become a separate school district, or to have its tax rate limited within certain bounds; and still another wished to change its boundaries, discontinue a street, or elect constables; to establish public pumps, or provide wardens and watchmen.

Some idea of the quantity of borough legislation performed at Harrisburg in times past, may be gained from looking into Beitel's Digest of the Titles of Corporations, which contains fifty-eight pages of mere references to acts of legislature relating to the boroughs between 1769 and 1873, most of which were passed since 1800. In 1873, the last year of the old Constitution, there were 105 borough acts passed by the legislature. Under the new State Constitution the legislature cannot incorporate cities, towns, or villages, or change their charters, or pass any special laws regulating the affairs of municipal corporations; its legislation must be general. The borough law as it now stands, consists mainly of the acts of 1834, 1851, and several subsequent acts. No borough has been obliged to forfeit its old charter, but the acts of more recent date have caused many modifications to be made in them, for sake of conformity with the new law. While some few of the oldest boroughs differ in the details of their constitutions, the boroughs incorporated since 1851 are very uniform. Without mentioning in particular the separate borough acts, we proceed to describe the borough system as it at present exists. There is no required area or population that a village must include to be a borough. The boundary lines are drawn close to the built-up portions of the town, encroaching as little as possible upon the township from which it is generally entirely distinct, each being a separate division of the county to which they bear the same relations, and pay the same rate of tax. Occasionally a small borough

will not stand entirely alone, but will form the same election district, or the same school or road district with a township. When they form one road district, the township supervisor repairs the borough streets, and the inhabitants pay their road tax to the township.

A township is not likely to provide better improvements for a village than it does for itself, though they may be needed, nor will the township secure to the village as efficient a police as it should have. These are two principal causes why villages seek incorporation. A large per cent. of the present boroughs have been incorporated when their populations did not exceed three or four hundred, but occasionally a town has had quite a large population before instituting borough government. Phœnixville was not a borough till it numbered 3,337 inhabitants. This delay did not argue the efficiency of the township system in governing towns, for several attempts were made to incorporate the town before success was attained. Many nuisances were committed, and could not be readily punished when the proper municipal authority was lacking, and the county jail and courts fifteen miles away. The streets were unpaved and ungraded, the town was growing without any system, and education was poorly provided for. Such was the condition when a borough charter was procured from the legislature in 1849.[1] Some townships have now many large villages in them not incorporated. Hegel township in Luzerne County had over ten thousand inhabitants in 1880, and thirteen villages, three of them with over a thousand people each.[2]

When a town desires to be incorporated it must present to the county court of Quarter Sessions an application signed by a majority of the freeholders of the place. The petition is laid before the grand jury after due public notice has been

[1] See S. Pennypacker's Annals of Phœnixville.

[2] The largest unincorporated village in 1880 was Arnot in Tioga county; population 2,783 in the census estimate.

given. If the jury finds no valid objections to the petition the court decrees the town a borough, and it receives its charter, a simple affair, setting forth the corporate style and title (the borough of ——), the boundaries, the time and place of holding the annual borough elections. The borough is now a corporation, and can have succession by its corporate name; it has a common seal; it can hold, purchase and convey property, sue and be sued. It has numerous other powers which it vests in the corporate officers named in the charter. A brief summary of the most important is as follows: Laying out and ordaining streets, prohibiting obstructions, regulating party walls, placing sinks and drains, regulating the markets, weights and measures, prohibiting offensive or dangerous manufactures, regulating burials, providing a supply of water, controlling the sanitary affairs, requiring owners to grade and pave in front of their properties, regulating and prohibiting plays and shows, appointing and removing officers, prescribing their duties and salaries, levying taxes, and borrowing money.

In boroughs not divided into wards the officers annually elected are the chief burgess, a council of six, a constable, an assessor, an auditor and if necessary two overseers of the poor. Boroughs with wards elect at least one and not more than three councilmen from each ward, and their terms of office are for two or three years. In the larger boroughs, if the number of members is divisible by three, they generally elect one-third each year, thus securing a constant majority of experienced men.[1] In boroughs with six councilmen, if the citizens prefer, the chief burgess may become a member of

[1] In York, a town of 13,940 (1880) the elected officers are a chief burgess and an assistant, treasurer, attorney, surveyor, two regulators, a supervisor, high constable, market master, lieutenant of police, president of the council, town clerk and eighteen councilmen. The chief burgess and the president of the council are at present the same. In Norristown, a borough of nearly the same size, the elected officers are a burgess and town council of eighteen. All other officers are elected by the town council.

the council, and preside at council meetings. Usually he is merely an executive officer. He is the chief magistrate and has the duty of enforcing the ordinances: he also exercises the powers of a justice of the peace, exercises jurisdiction in the disputes arising between citizens and the corporation, signs the ordinances and by-laws of the council, sees that the officers appointed do their duty, issues warrants for the collection of taxes, and in general is the right-hand man of the council.

The borough council is both a legislative and administrative body. It appoints all the officers not elected. For the better administration of the numerous duties that come before it, the council organizes a number of standing committees. In a borough of twelve hundred inhabitants we find the council organizing in this wise at the first regular meeting after the new election. The council of six elects its president, treasurer, secretary, street commissioner, collector of taxes and overseer of the poor, chief engineer of the fire department, assistant engineer, and attorney. Then it divides itself into four committees on public property, streets, ordinances and finance.[1] Stated meetings of the council must be held once a month, and all its ordinances must be published at least ten days before they take effect.

In the administration of justice there are no regular borough courts as in England. Cases are taken before the chief burgess or a justice of the peace[2] where a preliminary trial is held, and if the offense is very serious it is turned over to the county court. The borough has a lock up, and the prisoner is kept there temporarily, till he can be removed to the county jail. The lock up is also a convenient place to lodge drunken men and tramps over night. Most of the cases of disturbance that arise in the larger towns must be settled in the county courts at the county's expense. The business of these courts

[1] This is the organization in Newtown, Bucks Co., at present.

[2] Justices of the peace are elected in both townships and boroughs. Every borough has two, and larger ones more.

must greatly increase in the future, as our towns are increasing in size. In England boroughs may have courts of Quarter Sessions presided over by a judge called a recorder, who must be a barrister of five years' standing. He is appointed by the Crown on the recommendation of the Home Secretary, and holds office during good behavior. He often acts for two or more boroughs, thus avoiding a large number of judges in a county. This is not in all English boroughs, but in those that have entirely or in part the organization of counties.[1] The recorder has very restricted civil jurisdiction, but his criminal jurisdiction is the same as that of the county courts of Quarter Sessions. If such officers and courts were allowed in the Pennsylvania boroughs in the most populous counties, it would probably be an advantage in relieving the county courts of a great pressure of criminal business.[2] But this means will not be adopted, as the constitution provides the legislature with power to increase the number of judges in a county when the amount of business requires it.

The question of finance is one that comes home to nearly everybody. How much tax have I to pay, and what sort of use is made of it? are pertinent questions that the citizen may address to the officers whom he elects. A state that can boast of all her municipal bodies administering their finances well, has just cause for pride. Pennsylvania cannot say that *all* her cities and towns do well in this particular, for she has notable exceptions. The boroughs, however, have generally administered their finances well, and this is one strong evidence of their success in affording a good local government. The chief items of expense are generally for repairing and opening streets, providing water-works, if such exist, lighting the town, and supporting the public schools. In the older boroughs, before

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[1] Local Government, p. 80. English Citizen Series.

[2] In Schuylkill County there were twenty-four boroughs in 1880, nine of them having populations ranging along from three to thirteen thousand inhabitants each, the growth of sixty years.

the common-school system was introduced, the town levied no school tax. Frequently, when the citizens wished for a school, they obtained permission from the legislature to raise money by lottery for a school building. In the same way they raised the means for town improvements. This was but an inherited policy. It would not be tolerated now, though some would support it even yet, but it was in the days before tax-paying was an agreeable feature of citizenship in Pennsylvania. Some idea of how well the financial affairs of the boroughs are managed nowadays may be gained from the experience of two or three boroughs. In York, the largest borough of Pennsylvania, the tax for municipal purposes was four mills on the dollar in 1883 and two mills in 1884. The rate of school-tax is generally from three-and-a-half to four-and-a-half mills, making a total borough tax of not over eight-and-a-half mills on the dollar. Norristown, nearly as large as York, levied a tax of ten mills on the dollar last year—five-and-a-half being for municipal expenses and the rest for schools. Newtown, a fair type of a prosperous country town, levies a tax for the present year (1885) of four-and-a-half mills for municipal purposes and six mills on the dollar for schools.

These particular places were selected simply because two of them represented the largest class of boroughs, and the third one of the smallest towns. The state collects no statistics in regard to its boroughs, and these few facts were obtained from reliable citizens.

In this day of municipal indebtedness, the debts of large towns like York and Norristown cannot be considered large. York had a bonded debt of $35,000, and a special loan of $20,000 in 1884, and at the close of the same year Norristown had a bonded debt of $66,000 and a temporary loan of $8,000. From personal acquaintance with the borough of Newtown, and from the testimony of responsible citizens of both York and Norristown, we can say that they are well governed. So well satisfied are the people of Norristown

with their efficient police force, well-regulated streets, and careful administration of the finances, that they have three times voted down the project to become a city. It is the pride of York to claim that its taxes are lower than those of any other municipal organization of its size in the State, and that under this rigid economy is also secured a well-kept, neat, and orderly town. So much for the possibilities of the borough system in Pennsylvania. In the early boroughs the indebtedness was limited by the charters only, when limited at all. There was no disposition towards municipal indebtedness till recent years, and no general legislation on the subject. The present constitution of 1874 limits the borough debts to seven per cent. of the assessed value of all taxable property. The constitutions of a few boroughs place still further restrictions upon their indebtedness.[1] It is when boroughs become cities that they depart from the good old ways of sound economy and plunge into debt. In the city the mechanism of government becomes more complex, and, as the wheels of governmental machinery multiply, the quantity of lubricating oil must increase. As cities and boroughs are constituted in Pennsylvania, there is an important difference between them. In place of the chief burgess and one council of the borough, we find the mayor and two councils in the city, which is their most vital distinction. Two councils were not necessary to a city till the law of 1874. It was optional before then. In England the title of a city depends not upon the form of its municipal government, but upon the presence of the bishop and cathedral, and the distinction between borough and city in their local government is only one of name.[2] Wm. Penn and his companion Friends had not enough reverence for bishops and cathedrals to endeavor to make such a distinction in Pennsylvania. Originally, it

[1] Bristol is restricted to a debt of $10,000, and York to two per cent. of the assessed valuation of its property.

[2] Local Government, English Citizen Series, p. 73.

was left entirely to the option of a town whether it became a city or a borough.[1] The law now requires a town to have ten thousand inhabitants before receiving the dignity of a city, which, under the present municipal system of requiring two councils in every city, is a wise provision. It is doubtful whether the bi-cameral system is of real advantage even to large cities, and it is much less necessary to small ones, where the simpler organization of the borough is all sufficient.

Viewing the Pennsylvania boroughs at this point in contrast with their English prototypes, we see that after two centuries, in which they have been growing and moulded into their present forms, they have left off much that was characteristic of English municipal life. We miss those peculiar institutions of the Middle Ages—the guilds. We do not meet even the aldermen and the host of officers that once formed the caudal appendages to the English towns—the bailiff of the brethren, the mace-bearer, the serjeants-at-mace, chamberlains, bellmen, beadles, peck-sealers, moormen and mossmen, the hedge-lookers, the flesh and fish-lookers, and the ale-tasters. What an array of officers, whose very names are unknown to Pennsylvania![2] There is, further, no borough sending its own representative to the legislature, so we hear nothing of parliamentary or legislative boroughs. There is no central authority like the Local Government Board to which the boroughs must account for what they have spent, and from which they get ready permission to spend still more.[3] With all the differences from and lack of anomalies of the boroughs of England, they are the English boroughs still, developed under different circumstances, changed to meet new necessities.

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[1] Parker City, the smallest in the State, has its common and select councils and mayor. Population in 1880 was 1,835.

[2] All these were officers of Lancaster, Eng., 1819. Since the reform act most of them have disappeared from the reform boroughs.

[3] For the authority exerted by the Local Government Board over the financial affairs of boroughs, see Wilson's National Budget.

We trust that we have now set before the reader a fair account of the historical borough in Pennsylvania, and its importance as a feature of local self-government. We have been accustomed for generations to hear the glorious tributes paid to the New England "town," and what it has done for the liberty and political education of the people, and it is time that we should know the institutions of other states that concern far greater populations. The Pennsylvania borough may not be such a good school for the development of political ideas as the New England "town"; but the separation of village[1] and township, and allowing to each its own government according to its own peculiar needs, is a more just and expedient way of governing town and country.

[1] Of late years many New England villages, or districts, have been organized by law for the sake of village improvements, side-walks, water-works, fire-department, night-watchmen, street-lamps, libraries, etc., for which "the ends of the town" refused to be taxed. The opposition of the farmer to the villager is a constant factor in New England local politics. In my native town, Amherst, Massachusetts, the villagers struggled for years in town-meeting to secure some system of sewerage for "the centre," but "the ends of the town" always voted "No." On one occasion, in order to allay suspicion of extravagance, a leading villager moved that, whatever system of sewerage be adopted, the surface-water and rain-fall be allowed to take their natural course down-hill in the ordinary gutters. The farmers sniffed danger in this wily proposition and voted an overwhelming "No." Accordingly, by the local law of Amherst, water had to run up-hill until the next town-meeting! Such is the power of Democracy.—Ed.